



Consultation Document

Future Regulation of Vehicle Immobilisation on Private Land in Northern Ireland

Response from:

British Vehicle Rental and Leasing Association

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Response to Department of Justice – Northern Ireland

Bona-fides **BVRLA, the industry and its members**

- Established in 1967, the British Vehicle Rental and Leasing Association is the UK trade body for companies engaged in the rental and leasing of cars and commercial vehicles. Its members operate a combined fleet of 3.3 million cars, vans and trucks.
- BVRLA members buy nearly half of all new vehicles sold in the UK, supporting around 184,000 jobs and contributing more than £14bn to the economy each year.
- By consulting with government and maintaining industry standards, the BVRLA helps its members deliver safe, sustainable and affordable road transport to millions of consumers and businesses. For more information, visit www.bvrla.co.uk.

Executive Summary

We welcome the opportunity to comment on the Department of Justice's consultation on the future regulation of vehicle immobilisation on private land in Northern Ireland.

Having reviewed the consultation we do not believe that there is sufficient evidence to warrant a radical change to the current system.

The volumes outlined in the consultation show very few companies immobilise vehicles on private land and where they do, the instances appear to be very low.

Our view would therefore be that option 2 in the consultation to make amendments to the current regime represents the most sensible way forward to protect motorists without placing further legislative burdens on businesses.

We particularly welcome the fact that this approach would introduce a Code of Practice and regulate release fees associated with clamping.

Background

The BVRLA view has historically been to oppose clamping and we were supportive of it being banned in Great Britain due to the high volume of clamping which took place and the high fees associated with release fees.

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Our members as vehicle rental and leasing companies are the registered keeper of their vehicles; however, they are not the day to day operator and user of their vehicles. It is therefore possible for our member's vehicles to be clamped and they would not have any knowledge that this had occurred. Whilst it is likely that the customer will pay the release fee this is not guaranteed and if the vehicle is left indefinitely it could then be removed leaving our members with a hefty bill for storage costs following notification from the storage company.

Given the historic costs that were involved with this in Great Britain we supported clamping being banned and a move to ticket issuance. However, we do not see this as a solution for Northern Ireland given the low volumes and low costs associated with clamping. We would recommend that a tightening up of the licensing laws for clampers is implemented as per option 2 in the consultation. This, for example, should include:

- Introduction of a Code of Practice
- Regulate release fees
- Requirement for clampers to notify the registered keeper when a vehicle is clamped
- If a vehicle on rent or lease is abandoned by a customer and the rental or lease company has to recover it there should be no charge to the company who has to recover the vehicle.
- Annual review and report on effectiveness of the scheme

Specific Comments

1. Which option do you think represents the best option for future regulation of VI on private land in Northern Ireland? Why?

We would support option 2 in the consultation which we believe would represent the simplest approach for all parties involved. This is based on the low volumes of clamping which occur in Northern Ireland and the costs of introducing legislation.

2. Are there any other options which should be considered?

Not that we are aware.

3. Do you think a code of practice should be introduced? Why?

Yes we believe a Code of Practice which is robustly enforced and sets clear standards that clamping organisations should follow would deliver real benefits to motorists.

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4. What should be covered by any code of practice? Should the code of practice be mandatory or voluntary? Why?

The code of practice would need to be mandatory so that all clamping businesses are operating to the same standard. It should cover areas such as:

- Release fees
- When it is reasonable to use clamping
- Treatment of disabled drivers
- Notifying the registered keeper that a clamp has been applied
- If a vehicle on rent or lease is abandoned by a customer and the rental or lease company has to recover it there should be no charge to the company who has to recover the vehicle.

5. Under option 2, do you have any other suggestions for “amendments”?

As we have mentioned we believe that amendments should include a responsibility on the clamping business to alert the registered keeper if the clamp is not removed. The reason for the delay could be that the vehicle is on rent to a customer who has decided to abandon the car rather than pay the release fee. In these cases the rental or lease company should not be charged the release fee.

6. What do you think the implications of deregulating VI would be?

We believe that deregulating the sector could cause widespread harm and risk to motorists and encourage so called “cowboy clampers” to set up in Northern Ireland. We believe some form of licensing and code of practice is absolutely necessary to protect motorists. If deregulation was to occur this would encourage the practice of clamping in situations where it is not needed and could see an unreasonable increase in fees as happened in England and Wales.

7. If VI is banned, what alternative parking enforcement measures could be introduced?

We would suggest that if the Government take the decisions to ban vehicle immobilisation then strict legislation would need to be introduced around the issuing of parking charge notices (PCNs). This would be very complex and costly for businesses. For rental and leasing companies the banning of clamping on private land in GB has proven complicated due to poor drafting of the legislation. The legislation is written in such a way that leasing companies find it very difficult to transfer liability for private parking notices to their customers as it requires

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them to submit copy lease agreements. In addition, the time-scales in the legislation are unworkable in some cases for processing registered keeper details from the DVLA.

If the Government chooses to go this route we would suggest detailed consultation takes place with ourselves to ensure the legislation allows for transfer of liability of PCNs from the rental or leasing company to the customer.

8. Do you think there should be an appeals process? How should the appeals process work?

Yes there would need to be an appeals process if VI was banned on private land. The appeals process would need to be independent and allow the motorist to have their case reviewed by an adjudicator who was knowledgeable about the rules surrounding parking on private land. The appeals process should be flexible to allow appeals by post or electronic.

Closing Comments

We welcome the opportunity to continue our constructive dialogue on the future of clamping in Northern Ireland and that our comments add value to the consultation process.

Leasing Members

In general, vehicle leasing is an arrangement where the user simply hires the use of the vehicle and assumes operational responsibility for a predetermined period and mileage at fixed monthly rental from the owner (the leasing company). Legal ownership is, in the majority of cases, retained by the leasing company.

Short Term Rental Members

Rental Members offer hourly, daily, weekly and monthly rental of vehicles to corporate customers and consumers. As explained above, rental members are the owners of the vehicle.



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